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PART V

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Reports of the Select Committee on the Bill to provide for the development of the tea industry under Central Control and for that purpose to establish a Tea Committee for India and levy a customs duty on tea produced in and exported from India was presented to the Constituent Assembly of India (Legislative) on the 1st March, 1949:—

We, the undersigned, members of the Select Committee to which the Bill to provide for the development of the tea industry under Central control and for that purpose to establish a Tea Committee for India and levy a customs duty on tea produced in and exported from India was referred, have considered the Bill and have now the honour to submit this, our report, with the Bill as amended by us annexed thereto.

2. We have renamed the body constituted by this Bill the "Central Tea Board", on the analogy of the Central Silk Board constituted by Act LXI of 1948.

3. We have made some important changes in the constitution of the Board. In the first place we consider that labour should not be denied representation on the Board and have accordingly provided three seats for labour. In addition, we have increased the number of official members to be nominated by the Central Government from three to four, with the object of providing for one official representative of labour. Having regard to the acreage and production of tea in Assam, we feel that one more seat should be given to Assam. We have also given seats to the Tripura and Mysore States and to the Government of the United Provinces, although the area under tea in these States and Provinces is not large. We consider that it would be more elastic if the non-official bodies which are to nominate members to the Board are left to be specified by rules. We have provided for the election of two members to the Board by the members of the Central Legislature from among themselves; these will represent the interests of consumers of tea on the Board. We have recast clause 4(8) giving

effect to the above changes and also grouping together the representatives from the different regions in a convenient manner.

4. The reasons for the other changes we have made are briefly explained below, wherever necessary.

Clause 1 (3). See the note on clause 20 below.

Clause 7. We do not consider it necessary to have more than one Vice-Chairman.

Clause 8(1). We consider that provision should be made for the delegation of functions to the Executive Committee by rules prescribed under this legislation, in addition to delegation by the Board as provided for in the Bill as introduced.

Clause 8(3). The Committees to be constituted by the Board will fall under two categories, viz., Standing Committees and *ad hoc* Committees. The former should in our opinion, consist of members of the Board, whereas the latter may well include persons who are not members of the Board. We consider, however, that the total strength of such persons on any *ad hoc* Committee should be limited to one-half of its strength.

New clause 10 (old clause 12). We have transposed this clause to what we consider a more suitable place, and we have also made a few additions to the measures which may be taken by the Board for the benefit of the tea industry.

New clause 11 (clause 10 in the Bill as introduced). Under the clause as introduced, a customs duty was leviable on all tea produced in and exported outside India. We have deleted the words "produced in India", as they may give rise to difficulties where foreign tea is mixed with Indian tea before export. Non-Indian teas which are in transit to a foreign destination may be exempted from the duty under the Sea Customs Act, 1878.

Clause 13. The Board should be able to borrow not only on the security of the Fund, but also on the security of any of its other assets. The proviso is in our opinion unnecessary, as the borrowing power has been specifically made "subject to such rules as may be prescribed" and any restrictions required may well be imposed by means of rules.

Clause 15 (2) (a). We carefully considered whether specific provision may not be made in the Bill itself for the vacation of office by members of the Board who are persistent absentees, etc., but on the whole feel that the matter may well be left to the rule-making power.

New clauses 17, 18 and 19. These are based on the Central Silk Board Act, 1948

New clause 17 provides penalties for the furnishing of false returns, the obstruction of officers, and failure to produce documents when a lawful requisition is issued in that behalf.

New clause 18 provides that prosecutions should be instituted only by or with the consent of the Central Government.

New clause 19 protects the Board and its officers and servants from legal action in respect of acts done in good faith.

New clause 20. In view of the changes made by us, it will not be possible to constitute the Board in accordance with the provisions of this Bill for a few months. It seems to us that the best way of dealing with this situation is to continue the life of the existing Act until it is possible to bring this Bill into effective operation. We have, therefore, altered clause 1(3), taking power to fix the date on which this Bill should come into force, and provided in clause 20 for the existing Act remaining in operation until then.

5. The Bill was published in Part V of the *Gazette of India*, dated the 22nd January, 1949.

6. We think that the Bill has not been so altered as to require circulation under rule 49(5) of the Rules of Procedure and Conduct of Business and we recommend that it be passed as now amended.

B. R. AMBEDKAR.

K. C. NEOGY.

K. A. MOHAMED.

T. A. RAMALINGAM CHETTIYAR.

R. K. SIDHVA.

H. V. KAMATH.

ROHINI KUMAR CHAUDHARI.

G. S. GUHA.

NAZIRUDDIN AHMAD.

M. ANANTHASAYANAM AYYANGAR.

S. V. KRISHNAMOORTY.

NEW DELHI;

The 1st March, 1949.

A. BILL No. 26 OF 1948.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* show amendments made by the Committee;
asterisks indicate omissions.)

A

BILL

to provide for the development of the tea industry under Central control, and for that purpose to establish a Central Tea Board and levy a customs-duty on tea * * * exported from India.

WHEREAS it is expedient to provide for the development of the tea industry under Central control, and for that purpose to establish a Central Tea Board and levy a customs-duty on tea * * * exported from India,

It is hereby enacted as follows:—

Preliminary.

1. Short title, extent and commencement.—(1) This Act may be called the Central Tea Board Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint

2 Declaration as to expediency of control by Central Government.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the tea industry.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “Board” means the Central Tea Board constituted under section 4;
- (b) “cess” means the customs-duty imposed by section 11;
- (c) “dealer” means a dealer in tea,
- (d) “Fund” means the Tea Improvement Fund referred to in section 12;
- (e) “grower” means a grower of tea;
- (f) “manufacturer” means a manufacturer of tea;
- (g) “member” means a member of the Board;
- (h) “prescribed” means prescribed by rules made under this Act.

Central Tea Board.

4. Constitution of Central Tea Board.—(1) The Central Government shall, by notification in the official Gazette and with effect from a date specified therein, constitute a Board to be called the “Central Tea Board” for the purpose of * * * exercising such * * * powers and discharging such duties as may be assigned to the Board by or under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of the following members, namely:—

- (i) a Chairman to be nominated by the Central Government;
- (ii) the following regional representatives, namely:

(a) *Assam*: Six persons of whom five shall be nominated by such bodies and in such manner as may be prescribed and one by the Government of Assam.

(b) *Tripura*: One person to be nominated by the Government of Tripura.

(c) *West Bengal*: Four persons of whom three shall be nominated by such bodies and in such manner as may be prescribed and one by the Government of West Bengal.

(d) *Madras*: Three persons of whom two shall be nominated by such bodies and in such manner as may be prescribed and one by the Government of Madras.

(e) *Travancore*: Two persons of whom one shall be nominated by such bodies and in such manner as may be prescribed and one by the Government of Travancore.

(f) *Mysore*: One person to be nominated by the Government of Mysore.

(g) *The United Provinces*: One person to be nominated by the Government of the United Provinces.

(h) *East Punjab*: One person to be nominated by the Government of East Punjab;

(iii) two persons to be elected by the members of the Central Legislature from among themselves;

(iv) nine persons to be nominated by the Central Government, of whom three shall be representatives of labour, two of exporters of tea, two of internal traders in tea, and two of Chambers of Commerce and Industry;

(v) four officials to be nominated by the Central Government.

(4) Every * nomination or election of a member shall be notified in the official Gazette; and the notification shall specify the term, not exceeding three years, for which the member shall hold office, and the date from which such term shall commence.

(5) When the term of office of a member expires or is about to expire by efflux of time, or when a member dies, resigns, is removed, ceases to reside in India, or becomes incapable of acting, the body or Government which nominated or elected him under sub-section (3) may nominate or elect a person to fill the vacancy which has arisen or is about to arise, as the case may be.

(6) If any body, or any Government other than the Central Government, fails to make any nomination which it is entitled to make under sub-section (3) or sub-section (5) within the time and in the manner, if any, prescribed in that behalf, the Central Government may make the nomination itself, and any person so nominated shall, for all the purposes of this Act, be deemed to have been nominated by the body or Government concerned.

5. Vacancies, etc., not to invalidate acts and proceedings.—No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

6. Salary and allowances of Chairman.—The Chairman shall be entitled to such salary and allowances and to such conditions of service in respect of leave, pension, provident fund, and other matters as may from time to time be fixed by the Central Government.

7. Vice-Chairman.—The Board shall elect from among its members a Vice-Chairman, * * who shall exercise such of the powers and discharge such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

8. Executive and other * Committees.—(1) There shall be an Executive Committee for the purpose of exercising such of the powers and performing such of the duties of the Board, as may be prescribed or as the Board may delegate to the * Committee, not being powers or duties the delegation of which is prohibited by rules made under this Act.

(2) The Executive * Committee shall consist of—

(i) the Chairman;

(ii) the Vice-Chairman; * * * and

(iii) seven other members elected by the Board from among its members in the manner prescribed.

(3) Subject to such control and restrictions as may be prescribed, the Board may constitute other Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for inquiring into and reporting or advising on any matter which the Board may refer to them.

(4) A Standing Committee shall consist exclusively of members of the Board.

(5) An *ad hoc* Committee may include persons who are not members of the Board, but their number shall not exceed one-half of its strength.

9. Secretary and Staff.—(1) The Central Government shall, after consulting the Board, appoint a Secretary to the Board who shall, under the control and direction of the Board, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman.

(2) Subject to such control and restrictions as may be prescribed, the Board may appoint such officers and servants as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may from time to time determine.

10. Functions of Board.—(1) The Board may take such measures as it may consider desirable for the benefit or development of the tea industry, including measures for—

(a) promoting the sale, and increasing the consumption, in India and elsewhere, of Indian tea or of tea generally; carrying on propaganda for those purposes;

(b) increasing the production of tea in India;

(c) undertaking, assisting or encouraging scientific, technological and economic research, and maintaining, and assisting in the maintenance of, research institutes and experimental and demonstration farms and manufacturing stations;

(d) collecting statistics from growers, manufacturers or dealers and from such other persons as may be prescribed, on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(e) fixing grade standards of tea and providing for training in tea tasting;

(f) improving the marketing of tea in India and elsewhere; and preventing unfair competition;

(g) assisting in the control of insects and other pests and diseases affecting tea;

(h) promoting co-operative efforts among growers and manufacturers;

(i) ensuring remunerative returns to growers and manufacturers;

(j) such other matters as may be prescribed.

(2) The Board shall exercise the powers conferred on it by sub-section (1) in accordance with, and subject to, such rules as may be prescribed, including rules for the allocation of moneys to different purposes.

Levy of cess and constitution of Fund

11. Imposition of duty on exports of Indian tea.— * * * * * A customs-duty shall be levied and collected on all tea * * * exported outside India from any area to which this Act applies, at such rate not exceeding two rupees per hundred pounds as the Central Government may, after consulting the Board, notify in the official Gazette.

12. Constitution of Fund.—(1) As soon as may be after the expiry of each month, the proceeds of the cess collected during that month shall, after deduction of the expenses of collection, be paid to the Board; and the Board shall credit the said proceeds and any other moneys which may be received by it to a Fund to be called the "Tea Improvement Fund".

(2) The Fund shall be applied towards meeting the expenses of the Board and the cost of the measures referred to in section 10.

13. Borrowing powers of Board.—Subject to such rules as may be prescribed, the Board shall have power to borrow on the security of the Fund or any other of its assets for any purpose for which the Fund may be applied. * *

* * * *

14. Accounts and audit.—(1) The Board shall cause accounts to be kept of all moneys received and expended by it.

(2) The accounts shall be audited every year by auditors appointed in this behalf by the Central Government; and such auditors shall disallow every item which, in their opinion, is not authorised by this Act or any rule made or direction issued thereunder.

(3) The Board may, within three months from the date of the communication to it of the disallowance of any item as aforesaid, appeal against such disallowance to the Central Government whose decision shall be final.

15. Power of Central Government to make rules.—(1) The Central Government may, after consulting the Board and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(a) the circumstances in which, and the authority by which, members may be removed;

(b) the holding of a minimum number of meetings of the Board every year;

(c) the maintenance of a record of all business transacted at meetings of the Board and the submission of copies of such records to the Central Government;

(d) the conditions subject to which, and the mode in which, contracts may be made by or on behalf of the Board;

(e) the preparation of budget estimates of the receipts and expenditure of the Board and the authority by which such estimates shall be sanctioned;

(f) the powers of the Board, the Executive Committee and the Chairman, in regard to the incurring of expenditure; and the reappropriation of estimated savings in any budget head to another such head;

(g) the conditions subject to which the Board may incur expenditure outside India;

(h) the conditions subject to which the Board may borrow;

(i) any other matter which is to be, or may be, prescribed.

(3) All rules made under this section shall be published in the official Gazette.

16. Power of Board to make by-laws.—(1) The Board may make by-laws consistent with this Act and the rules made thereunder, to provide for—

(a) the dates, times and places of its meetings and of meetings of its Executive and other * Committees, the quorum for such meetings, and the procedure thereat;

(b) the delegation of powers and duties to its Executive or any other Committee, or to its Chairman, * Vice-Chairman, * Secretary or any other of its officers;

(c) the travelling allowances of members and of members of * Committees;

(d) the appointment, promotion and dismissal of its officers and servants, and the creation and abolition of their posts;

(e) the conditions of service of its officers and servants, including their pay, leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances, and the establishment and maintenance of a provident fund for them;

(f) the maintenance of its accounts;

(g) the persons by whom, and the manner in which payments, deposits and investments may be made on its behalf;

(h) the custody of moneys required for its current expenditure; and the investment of moneys not so required;

(i) the preparation of statements showing the sums allotted to Departments of the Central and Provincial Governments or to other institutions.

(2) No by-law shall take effect until it has been confirmed by the Central Government and published in the official Gazette; and the Central Government, in confirming a by-law, may make any change therein which appears to it to be necessary.

(3) The Central Government may, by notification in the official Gazette, cancel any by-law which it has confirmed, and thereupon the by-law shall cease to have effect.

Miscellaneous

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17. Penalties.—If any person—

(a) in any return to be furnished under this Act makes any statement which is false and which he knows to be false or does not believe to be true, or

(b) obstructs any officer of the Board in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, or

(c) having the control or custody of any account book or other record, fails to produce such book or record, when required to do so under this Act, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

18. Prosecution to be with the consent of the Central Government.—No prosecution for any offence punishable under this Act shall be instituted except by or with the consent of the Central Government.

19. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against the Board or any member or officer of the Board for anything in good faith done or intended to be done under this Act.

20. Temporary continuance and ultimate repeal of Act IX of 1903.—(1) The Indian Tea Cess Act, 1903 (IX of 1903) (including sections 2 to 7 thereof which expire on the 31st day of March, 1949), shall continue to remain in force until, and shall stand repealed on, the date appointed for the commencement of this Act.

(2) (a) All moneys and other property, and all rights and interests, of whatever kind, owned by, vested in, used, enjoyed or possessed by, or held in trust by or for, the Indian Tea Market Expansion Board constituted under Act IX of 1903, as well as all liabilities legally subsisting against it, shall pass to the Board with effect from the commencement of this Act;

(b) All officers and servants of the Indian Tea Market Expansion Board constituted under Act IX of 1903 who hold office immediately before the commencement of this Act shall be deemed to have been appointed officers and servants of the Board with effect from the commencement of this Act, and shall be entitled to the same pay and allowances and to the same conditions of service in respect of other matters as they were entitled to immediately before the commencement of this Act; and any contract of service entered into by any such officer or servant with the Indian Tea Market Expansion Board aforesaid shall have effect as if it were a contract entered into by him with the Board immediately after the commencement of this Act;

(c) Any proceedings taken by the Indian Tea Market Expansion Board aforesaid before the commencement of this Act may be continued by the Board.

(3) If any difficulty arises in giving effect to the provisions of this or any other section of this Act, the Central Government may, as occasion may arise, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

The following Reports of the Select Committee on the Bill to make provision for the regulation of the profession of accountants was presented to the Constituent Assembly of India (Legislative) on the 1st March 1949 --

We, the undersigned, members of the Select Committee to which the Bill to make provision for the regulation of the profession of accountants was

*Appeal submitted by the Accountants' Association of India to the Commerce Minister, Government of India.

referred, have considered the Bill, the evidence tendered on behalf of the Accountants' Association of India and the paper* noted in the margin, and have now the honour to submit this, our Report, with the Bill as amended by us annexed thereto.

Clause 1(2).—We have re-cast this clause to conform to the formula now adopted with reference to the application of Acts of the Dominion Legislature to Acceding States.

Clause 2(2).—The words "in consideration of remuneration received or to be received" should cover all classes of cases mentioned in this sub-clause, and not merely the first item therein.

We have omitted item (iv) as, in our opinion, this is a matter which can and ought to be regulated by the Council under item (v), now re-numbered (iv).

Clause 4.—We think that provision should be made for the enrolment of any person who has passed the examination for the Government Diploma in Accountancy before the commencement of this Act and who, although not duly qualified under the Auditors' Certificates Rules, 1932, fulfils such other conditions as to training prescribed by the Central Government as would render him suitable for admission as a member of the Institute. Further, we have deleted all references to domicile as being a matter somewhat difficult to determine in many cases. We have, however, added a proviso to sub-clause (iv) whereby, in the case of persons not permanently residing in India, the Council may prescribe such further conditions as it may think fit. We have also prescribed a maximum limit of the fee that may be levied by the Council for the admission of members.

Clause 5.—Apart from a slight drafting amendment, we have prescribed a maximum limit of the fee payable by fellows of the Institute.

Clause 7.—We have redrafted the proviso so as to make it clear that persons entitled to add to their names any other description or letters to indicate membership of such other institute of accountancy as may be recognised by the Central Government are not prohibited from doing so by reason of anything contained in this clause. In our opinion, members of a firm of chartered accountants should also be entitled to use their firm name as Chartered Accountants.

Clause 8.—We think that no person who has not attained the age of 21 years should be allowed to become a member of the Institute. Although this contingency is hardly likely to arise, it would be advisable to expressly provide therefor.

Clause 9.—In view of the constitutional changes that are taking place, we think that it should be left to the Central Government to specify from time to time the regional constituencies for the purpose of this clause.

Clause 10.—We have included a proviso authorising the Central Government to take such steps as may be necessary for holding the first election.

Clause 12.—The new sub-clause (4) enables the President to carry on the administrative functions of the Council until such time as a new Council is constituted.

Clause 14.—We have made a few drafting changes.

Clause 16.—We think that the President, Vice-President and members of the Council should not be paid any salaries.

Clause 17.—In our opinion, it is essential that a Government nominee on the Council is assured of a seat on the Disciplinary Committee, and we have added a proviso to sub-clause (3) to this effect.

Clause 18.—We think that members of the Institute should be entitled to free copies of the annual accounts and Report of the Council.

Clauses 20 and 21.—The power to remove the name of any member from the Register for misconduct should be exercised only after a thorough inquiry, and, in our opinion, an independent and impartial inquiry will be assured if the Council, after holding a preliminary inquiry, is required to forward its finding to the High Court. We have, therefore, redrafted old clause 20 on the model of the Indian Bar Councils Act, 1926.

In our opinion there should be no distinction between misconduct arising in income-tax proceedings and other proceedings and we have therefore eliminated this distinction. But we have provided that where the complainant is the Government, the Council is under an obligation to hold an inquiry, irrespective of any opinion it may have on the matter.

We have also provided for the consolidation of proceedings in one High Court, and for the transfer of any case from one High Court to another where it is necessary to do so for the purpose of avoiding multiplicity of proceedings.

Clause 23 (old clauses 21 to 24).—We think that at this stage it will be sufficient if the Council is given power to constitute Regional Councils as and when it thinks fit, and no elaborate provisions need be incorporated in the Bill for this purpose.

Clause 24 (old clause 25).—In our opinion, clause (c) is unnecessary and may be omitted. Further, we have slightly modified this clause as a matter of drafting.

Clause 25 (old clause 26).—This clause deals with offences by companies, and it is, therefore, appropriate that sub-clause (2) should be redrafted so as to fasten the liability on officers of the company responsible for the contravention.

Clause 29 (old clause 30).—For the purpose of applying this clause, the Council should be guided by the decision of the Central Government as to whether any foreign country practises unfair discrimination with regard to the subjects of our country practising the profession of accountancy in such foreign country. We have accordingly modified this clause.

Clause 32 (old clause 33).—The proviso to sub-section (1) of section 144 of the Indian Companies Act, 1913 should continue to find a place in that Act, and it has therefore been restored.

The Schedule, paragraph 1.—In our opinion, nothing contained in item (n) should prohibit a chartered accountant from being a director of a company, unless he is interested in that company as an auditor. A proviso to this effect has therefore been added.

Items (o) and (p) have been recast in order to bring out their meaning more clearly.

Item (v) has now become unnecessary and is therefore omitted.

Paragraph 2 of the Schedule is expressed in very wide language and is also unnecessary in view of other similar provisions in the Bill.

2. The Bill was published in Part V of the Gazette of India dated the 11th September, 1948.

3. We think that the Bill has not been so altered as to require circulation under rule 49(5) of the Rules of Procedure and Conduct of Business, and we recommend that it be passed as now amended.

B. R. AMBEDKAR,

K. C. NEOGY.

*H. P. MODY.

K. SANTHANAM.

M. ANANTHASAYANAM AYYANGAR.

MAHAVIR TYAGI

*T. T. KRISHNAMACHARI.

*THAKUR DAS BHARGAVA.

FRANK ANTHONY.

ARUN CHANDRA GUHA.

*MIHIR LAL CHATTOPADHYAY.

*M. THIRUMALA RAO.

NEW DELHI:

The 1st March 1949.

* Subject to a Minute of Dissent.

MINUTES OF DISSENT.

I

I regret I am not in agreement with some of the recommendations made by the Select Committee.

I am altogether opposed to the idea of Accountants in India adopting a designation which has acquired a special significance and has come to be associated with a particular class of Accountants. I do not see why, if it is thought necessary to adopt the term "Chartered Accountant" the word "India" should not be added at the end to make it clear that, as is the case in South Africa and Australia, persons with Indian qualifications calling themselves Chartered Accountants were not members of Institutes and Societies in other countries.

The proviso to Clause 7 permits Members of the Institute in India who constitute a firm to use only the term "Chartered Accountants", but those firms whose members have already qualified as Chartered or Incorporated Accountants abroad are not to be allowed the designations so acquired after their firm name in signing accounts and other documents. This, again, is calculated to mislead the public and I cannot agree with it.

Clause 24(i) should not apply to persons who belong to Institutes or Societies which are recognised at the commencement of the Act by the Central Government *vide* Rule 7 of the Auditors' Certificates Rules, 1932, and which permit them to call themselves Chartered Accountants or use the titles F.C.A., A.C.A., or C.A.

Clause 29 should make clear that the Rules to be framed will make provision for the recognition of persons who belong to Institutes or Societies which are already recognised under Rule 7 of the Auditors' Certificate Rules, 1932.

H. P. MODY.

NEW DELHI;

The 1st March 1949.

II

Clause 2(2).

I think it is necessary to add the words 'or is an assistant in a firm of chartered accountants' after the words 'chartered accountants' for the reason a qualified associate or a fellow should be permitted if he elects to do so to get employed in a firm of chartered accountants without using his status as a fellow or as an associate. It may be said that this is not specifically excluded by the wording of clause 2(2) but even so I would like it to be made explicit particular as the wording of clause 27 contemplates a contingency where a fellow or associate may be employed by a firm of chartered accountants to manage a bank.

T. T. KRISHNAMACHARI

DELHI;

The 1st March, 1949.

III

We find this measure will apply to Acceding States. It is therefore necessary that 2(d) and (h) should be amended so as to include the practising accountants in the States under their rules.

THAKUR DASS BHARGAVA
M. THIRUMALA RAO

NEW DELHI;

The 1st March, 1949.

A. BILL No. 78 OF 1948.

(AS AMENDED BY THE SELECT COMMITTEE.)

*(Words sidelined or underlined indicate the amendments suggested by the Committee, asterisks indicate omissions.)*A
BILL*to make provision for the regulation of the profession of accountants.*

WHEREAS it is expedient to make provision for the regulation of the profession of accountants and for that purpose to establish an Institute of Chartered Accountants;

It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Chartered Accountants Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State as respects the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Interpretation.—(1) In this Act unless there is anything repugnant in the subject or context,—

(a) “associate” means an associate member of the Institute;

(b) “chartered accountant” means a person who is a member of the Institute and who is in practice;

(c) “Council” means the Council of the Institute.

(d) “holder of a restricted certificate” means a person holding a permanent or temporary restricted certificate granted by a Provincial Government under the Restricted Certificates Rules, 1932;

(e) “Institute” means the Institute of Chartered Accountants of India constituted under this Act;

(f) “prescribed” means prescribed by regulations made under this Act;

(g) “Register” means the Register of Members maintained under this Act;

(h) “registered accountant” means any person who has been enrolled on the Register of Accountants maintained by the Central Government under the Auditors’ Certificates Rules, 1932;

(i) “year” means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) A member of the Institute shall be deemed “to be in practice”, when individually or in partnership with* chartered accountants, he, in consideration of remuneration received or to be received,—

(i) engages himself in the practice of accountancy; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

*

*

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant;

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

CHAPTER II.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA.

3. Incorporation of the Institute.—(1) All persons whose names are * * entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Chartered Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. Entry of names in the Register.—(1) Any of the following persons shall be entitled to have his name entered in the Register, namely,—

(i) any person who is a registered accountant or a holder of a restricted certificate at the commencement of this Act;

(ii) any person * * * who has passed such examination and completed such training as may be prescribed for members of the Institute;

(iii) any person who has passed the examination for the Government Diploma in Accountancy before the commencement of this Act, and who, although not duly qualified to be registered as an accountant under the Auditors' Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf;

(iv) any person * * * who has passed such other examination and completed such other training without India as is recognised by the Council as equivalent to the examination and training prescribed for members of the Institute: * * *

Provided that in the case of any person who is not permanently residing in India, the Council may prescribe such further conditions as it may think fit;

(v) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such foreign examination, is at the commencement of this Act undergoing training, whether within or without India.

Provided that any such examination or training was recognised before the commencement of this Act for the purpose of conferring the right to be registered as an accountant under the Auditors' Certificates Rules, 1932, and provided further that such person passes the examination or completes the training within five years after the commencement of this Act;

* * * * *

(2) Every person belonging to the class mentioned in clause (i) of sub-section (1) shall * * * have * his name entered in the Register * * * without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv) and (v) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed fee, which shall not exceed rupees three hundred in any case.

(4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register.

5. Fellows and Associates.—(1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and be entitled to use the letters A.C.A. after his name to indicate that he is an associate member of the Institute of Chartered Accountants.

(3) An associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute and shall be entitled to use the letters F.C.A. after his name to indicate that he is a fellow of the Institute of Chartered Accountants.

* * * * *

6. Certificate of practice.—(1) No member of the Institute shall be entitled to practise unless he has obtained from the Council a certificate of practice.

(2) Every such member shall pay such annual fee, differing in amount according as he is an associate or a fellow of the Institute, for his certificate as may be prescribed, and such fee shall be due on the 1st day of April in each year.

7. Members to be known as Chartered Accountants.—Every member of the Institute in practice shall be designated as a Chartered Accountant and no person practising the profession of accountancy in India shall use any other designation, whether in addition thereto or in substitution therefor

Provided that nothing contained in this section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.

8. Disabilities—Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in or borne on the Register if he—

(i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register; or

(ii) has been adjudged by a competent Court to be of unsound mind; or
 (iii) is an undischarged insolvent; or
 (iv) being a discharged insolvent, has not obtained from the Court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or

(v) has been convicted by a competent Court whether within or without India, of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability; or

(vi) has been found on inquiry * * * * to have been guilty of conduct which * * * * renders him unfit to be a member of the Institute.

CHAPTER III.

COUNCIL OF THE INSTITUTE

9. Constitution of the Council of the Institute.—(1) There shall be a Council of the Institute * * * for the management of the affairs of the Institute and for discharging the functions assigned to it under this Act

(2) The Council shall be composed of the following persons, namely,—

(a) persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the official Gazette; and

(b) five persons nominated by the Central Government

10. Mode of election to Council.—(1) Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner.

Provided that the first election under the said clause shall be held in such manner as the Central Government may prescribe.

(2) Where any dispute arises regarding any such election, the matter shall be referred to a Tribunal appointed by the Central Government in this behalf and the decision of such Tribunal shall be final.

11. Nomination in default of election or nomination.—If any body of persons referred to in section 9 fails to elect * * * any of the members of the Council which it is empowered under that section to elect, * * * the Central Government may nominate a person duly qualified to fill the vacancy, and any person so nominated shall be deemed to be a member of the Council as if he had been duly elected * * *

12. President and Vice-President—(1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant the Council shall choose another person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Authority of the Council.

(3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election.

* * * * *

(4) On the dissolution of the Council, the President of the Council at the time of such dissolution shall continue to hold office and discharge such administrative and other duties as may be prescribed until such time as a new President shall have been elected and shall have taken over charge of his duties.

13. Resignation of membership and casual vacancies.—(1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council, or if his name is, for any cause, removed from the Register under the provisions of section 20.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. Duration and dissolution of Council.—The duration of any Council constituted under this Act shall be three years from the date of its first meeting, on the expiry of which it shall stand dissolved and a new Council constituted in accordance with the provisions of this Act.

15. Functions of the Council.—(1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

(a) the examination of candidates for enrolment and the prescribing of fees therefor;

(b) the regulation of the engagement and training of articled clerks;

(c) the prescribing of qualifications for entry in the Register;

(d) the recognition of foreign qualifications and training for purposes of enrolment;

(e) the granting or refusal of certificates of practice under this Act;

(f) the maintenance and publication of a Register of persons qualified to practise as chartered accountants;

(g) the levy and collection of fees from chartered accountants, associates, members, examinees and other persons;

(h) the removal of names from the Register and the restoration to the Register of names which have been removed;

(i) the regulation and maintenance of the status and standard of professional qualifications of chartered accountants;

(j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;

(k) the maintenance of a library and publication of books and periodicals relating to accountancy; and

(l) the exercise of disciplinary powers conferred by this Act.

16. Staff, remuneration and allowances.—(1) For the efficient performance of its duties, the Council may—

(a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;

(b) appoint such other officers and servants as it deems necessary;

(c) require and take from the Secretary or from any other officer or servant of the Council such security for the due performance of his duties, as the Council considers necessary; *

(d) * * * fix the * * * salaries, fees, allowances and other conditions of service of the * officers and servants of the Council;

(e) with the previous sanction of the Central Government, fix the allowances of the President, Vice-President and other members of the Council.

(2) Notwithstanding anything contained in sub-section (1), on the first constitution of the Council the Secretary shall be a person appointed by the Central Government in consultation with the Council, and he shall hold office during the pleasure of the Central Government, but so as not to exceed a period of three years from the date of his appointment.

17. Committees of the Council.—(1) The Council shall constitute from amongst its members the following Standing Committees, namely,—

(i) an Executive Committee,

(ii) an Examination Committee, and

(iii) a Disciplinary Committee.

(2) The Council may also form such other committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) Each of the Standing Committees shall consist of the President and the Vice-President, *ex officio*, and three other members of the Council elected by the Council:

Provided that in the case of the Disciplinary Committee, out of the members to be elected, two shall be elected by the Council, and the third nominated by the Central Government from amongst the persons nominated to the Council by the Central Government.

(4) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of each of the Standing Committees.

(5) Every member of the Standing Committee other than the Chairman and the Vice-Chairman shall hold office for one year from the date of his election, but, subject to being a member of the Council, he shall be eligible for re-election.

(6) The Standing Committees shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. Finances of the Council.—(1) There shall be established a fund under the management and control of the Council into which shall be paid all monies

received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the fund distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant to be appointed annually by the Council:

Provided that no member of the Council or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 80th day of September of the year next following, the Council shall cause to be published in the Gazette of India a copy of the audited accounts and the Report of the Council for that year, and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.

(6) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934 (II of 1934), or from the Central Government—

(a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it, or

(b) for the purpose of meeting current liabilities pending the receipt of income, by way of temporary loan or overdraft.

CHAPTER IV.

REGISTER OF MEMBERS.

19. Register.—(1) The Council shall maintain in the prescribed manner a Register of the Members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely,—

(a) his full name, date of birth, domicile, residential and professional addresses;

(b) the date on which his name is entered * * * in the Register;

(c) his qualifications;

(d) whether he holds a certificate of practice; and

(e) any other particulars which may be prescribed.

(3) The Council shall cause to be published in the Gazette of India a list of members of the Institute as on the first day of April of each year, and a copy of such list shall be sent to each member of the Institute.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be prescribed.

20. Removal from the Register.—(1) The Council may remove * * from the Register the name of any member of the Institute—

(a) from whom a request has been received to that effect; or

(b) who has not paid any prescribed fee required to be paid by him; or

(c) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.

* * * * *

(2) The Council shall remove from the Register the name of any member who has been found by the High Court to have been guilty of conduct which renders him unfit to be a member of the Institute.

CHAPTER V.

MISCONDUCT.

21. Procedure in inquiries relating to misconduct of members of Institute.—(1) Where on receipt of information or on receipt of a complaint made to it, the Council is of opinion that any member of the Institute has been guilty of conduct which, if proved, will render him unfit to be a member of the Institute, or where a complaint against a member of the Institute has been made by or on behalf of the Central Government, the Council shall cause an inquiry to be held in such manner as may be prescribed, and the finding of the Council shall be forwarded to the High Court.

(2) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard before orders are passed on the case.

(3) The High Court may, thereafter, either pass such final orders on the case as it thinks fit or refer it back for further inquiry by the Council and, upon receipt of the finding after such inquiry, deal with the case in the manner provided in sub-section (2) and pass final orders thereon.

(4) Where it appears to the High Court that the transfer of any case pending before it to another High Court will promote the ends of justice, or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court, to which such case is transferred, shall deal with it as if the finding of the Council relating to the case had been forwarded to it.

Explanation.—In this section 'High Court' means the highest civil court of appeal, not including the Federal Court, to which the Council forwards its finding, exercising jurisdiction in the area in which the person whose conduct is being enquired into carries on business, or has his principal place of business at the commencement of the inquiry:

Provided that where the findings of the Council relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts, to the exclusion of the others, shall hear the cases against all the members.

22. Misconduct defined.—For the purposes of this Act, the expression "conduct which, if proved, will render a person unfit to be a member of the Institute" shall be deemed to include any act or omission specified in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER VI.

REGIONAL COUNCILS.

23. Constitution and functions of Regional Councils.—(1) The Council may constitute such Regional Councils as and when it deems fit for one or more of the regional constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

(2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII.

PENALTIES

24. Penalty for falsely claiming to be a member, etc.—Any person who,—

(i) not being a member of the Institute,—

(a) represents that he is a member of the Institute; or

(b) uses the designation Chartered Accountant, or

(ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a chartered accountant,

shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both.

25. Companies not to engage in accountancy.—(1) No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.

(2) If any company contravenes the provisions of sub-section (1), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

26. Unqualified persons not to sign documents.—(1) No person other than a member of the Institute shall sign any document on behalf of a chartered accountant or a firm of chartered accountants in his or its professional capacity.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

27. Maintenance of branch offices.—(1) Where a chartered accountant or a firm of chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute:

Provided that the Council may in suitable cases exempt any chartered accountant or a firm of chartered accountants from the operation of this sub-section.

(2) Every chartered accountant or a firm of chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

28. Sanction to prosecute.—No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VIII.

MISCELLANEOUS.

29. Reciprocity.—(1) Where any country, specified by the Central Government in this behalf by notification in the official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute of Chartered Accountants of India or from practising the profession of accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of accountancy in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to accountancy shall be recognised for the purposes of entry in the Register.

30. Power to make regulations.—(1) The Council may, by notification in the * Gazette of India, make regulations for the purpose of carrying out the objects of this Act, and a copy of such regulations shall be sent to each member of the Institute.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—

- (a) the standard and conduct of examinations under this Act;
- (b) the qualifications for the entry of the name of any person in the Register as a member of the Institute;
- (c) the conditions under which any examination or training may be treated as equivalent to the examination and training prescribed for members of the Institute; * * *
- (d) the conditions under which any foreign qualification may be recognised;
- (e) the manner in which and the conditions subject to which applications for entry in the Register may be made;
- (f) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;
- (g) the manner in which elections to the Council and the Regional Councils may be held;
- (h) the particulars to be entered in the Register;
- (i) the functions of Regional Councils;
- (j) the training of articled clerks and the fixation of limits within which premia may be charged from such clerks and the cancellation of articles for misconduct or for any other sufficient cause;
- (k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (l) the carrying out of research in accountancy;
- (m) the maintenance of a library and publication of books and periodicals on accountancy;
- (n) the management of the property of the Council and the maintenance and audit of its accounts;

(o) the summoning and holding of meetings of the Council, the times and places of such meetings, the conduct of business thereat and the number of members necessary to form a quorum;

(p) the powers, duties and functions of the President and the Vice-President of the Council,

(q) the functions of the Standing and other committees and the conditions subject to which such functions shall be discharged;

(r) the terms of office, and the powers, duties and functions of the Secretary and other officers and servants of the Council;

(s) the exercise of disciplinary powers conferred by this Act; and

(t) any other matter which is required to be or may be prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2) the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force from the date of the coming into force of this Act, until they are amended, altered or revoked by the Council.

31. References to registered accountants, etc. to be construed as references to chartered accountants.—Any reference to a registered accountant or a certified or qualified auditor in any other law for the time being in force or in any document whatsoever shall be construed as a reference to a chartered accountant as defined in this Act.

32. Amendment of section 144, Indian Companies Act, 1913.—In section 144 of the Indian Companies Act, 1913 (VII of 1913), for sub-sections (1), (2), (2A) and (2B), the following sub-section shall be substituted, namely:—

“(1) No person shall be appointed to act as an auditor of any company other than a private company, not being the subsidiary company of a public company, unless he is a chartered accountant within the meaning of the Chartered Accountants Act, 1949:

Provided that a firm whereof all the partners practising in India are chartered accountants may be appointed by its firm name to be auditor of a company and may act in its firm name.

SCHEDULE.

(See * * section 22)

*A chartered accountant shall be deemed to be guilty of conduct rendering him unfit to be a member of the Institute, if he—

(a) allows any person to practise in his name as a chartered accountant unless such person is also a chartered accountant and is in partnership with or employed by himself;

(b) pays or allows or agrees to pay or allow, directly or indirectly, to any person other than a member of the Institute or a retired partner or a nominee or the legal representative of such partner, any share, commission or brokerage in the fees or profits of his professional services;

(c) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;

(d) enters into partnership with any person other than a chartered accountant or secures, either through the services of a person not qualified to be a chartered accountant or by means which are not open to a chartered accountant, any professional business;

(e) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;

(f) advertises his professional attainments or services, or uses any designation or expression other than chartered accountant on professional documents, visiting cards, letter-heads or sign-boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognized by the Central Government or may be recognized by the Council;

(g) discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client, or otherwise than as required by any law for the time being in force;

(h) accepts a position as auditor previously held by another chartered accountant without first communicating with him in writing;

(i) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 144 of the Indian Companies Act, 1913 (VII of 1913) as respects the appointment of auditors or, if the company is registered in an Acceding State, the provisions of any similar law for the time being in force in that State, have been duly complied with;

(j) certifies or submits in his name or in the name of his firm a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant;

(k) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;

(l) expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;

(m) charges in respect of any professional employment fees which are based on a percentage of profits or which are contingent on results;

(n) engages in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle a chartered accountant from being a director of a company, unless he or any of his partners is interested in such company as an auditor;

(o) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading;

(p) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;

(q) is grossly negligent in the conduct of his professional duties;

(r) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion,

(s) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;

(t) fails to keep monies of his client in a separate banking account or to use such monies for purposes for which they are intended;

(u) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;

(v) is guilty of such other act or omission in his professional capacity as may be specified by the Council in this behalf, by notification in the Gazette of India.

M. N. KAUL,
Secy. to the Govt. of India.

The following Bill was introduced in the Constituent Assembly of India, (Legislative) on the 5th March, 1949:—

A. BILL No. 22 OF 1949.

A Bill further to amend the Coffee Market Expansion Act, 1942.

WHEREAS it is expedient further to amend the Coffee Market Expansion Act, 1942 (VII of 1942), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Coffee Market Expansion (Amendment) Act, 1949.

2. Insertion of new section 32A in Act VII of 1942.—After section 32 of the Coffee Market Expansion Act, 1942, the following section shall be inserted, namely:—

“32A. *Power of the Board to make donation to the Gandhi National Memorial Fund.*—Notwithstanding anything contained in section 32, the Board may apply any part of the pool fund to the making of a donation to the Fund known as the Gandhi National Memorial Fund.”

STATEMENT OF OBJECTS AND REASONS

The Indian Coffee Board, constituted under the Coffee Market Expansion Act 1942, had at its General meeting held on the 4th November, 1948, resolved that a donation of Rs. 95,000 be paid out of the coffee pool funds to the Mahatma Gandhi Memorial Fund. The provisions of the Coffee Market Expansion Act, 1942, as they stand at present, do not, however, permit the Board to make such a donation from the pool funds.

2. It is the object of this Bill to suitably amend the Coffee Market Expansion Act, 1942, to enable the Indian Coffee Board to make the proposed donation to the Mahatma Gandhi Memorial Fund.

3. It may be stated in this connection that companies registered under the Indian Companies Act have been specially authorised to make such donations by the Gandhi National Memorial Fund Donations (Companies) Act, 1948 (XXXV of 1948).

SYAMA PRASAD MOOKERJEE.

NEW DELHI;

The 23rd February, 1949.

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 7th March, 1949:—

A. BILL No. 29 OF 1949.

A Bill further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1949.

2. Amendment of section 503, Act V of 1898.—In section 503 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),—

(i) for sub-sections (2) and (2A), the following sub-sections shall be substituted, namely:—

“(2) When the witness resides in a tribal area, the commission may be issued to the officer exercising the powers of a District Magistrate in, or in relation to, such area.

(2A) When the witness resides in an Acceding State, or in any area in, or in relation to, which the Central Government has extra provincial jurisdiction within the meaning of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), the commission may be issued to such Court in the State or area as may be specified by the Central Government by notification in the official Gazette as a Court to which commissions may be issued under this sub-section, within the local limits of whose jurisdiction the witness resides.

(2B) When the witness resides in the United Kingdom or in any British possession outside India or in the Union of Burma, the commission may be issued to such Court or Judge having authority in this behalf in that country as may be specified by the Central Government by notification in the official Gazette.”;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Where the commission is issued to an officer exercising the powers of a District Magistrate in a tribal area under sub-section (2), he may, in lieu of proceeding in the manner laid down in sub-section (3), delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in the Provinces of India.”

3. Amendment of section 505, Act V of 1898.—In section 505 of the said Code,—

(i) in sub-section (1), for the words, brackets, letter and figures “and, except in a case to which clause (b) of sub-section (4) of section 503 applies, the Magistrate” the words “and the Magistrate” shall be substituted; and the sentence beginning with the words “In a case to which” and ending with the words “forwards the commission for execution” shall be omitted;

(ii) in sub-section (2), for the words, brackets, letter and figures “except in a case to which clause (b) of sub-section (4) of section 503 applies, before such officer” the word “officer” shall be substituted.

4. Amendment of section 507, Act V of 1898.—In sub-section (1) of section 507 of the said Code, the words, brackets, letter and figures “or, in a case to

which clause (b) of sub-section (4) of section 508 applies, has been again received by the officer by whom it was forwarded to the State Court" shall be omitted.

5. Amendment of section 508A, Act V of 1898.—In section 508A of the said Code, for the words "by a Magistrate or Court in Burma under the law in force in Burma" the words "by any Court or Judge having authority in this behalf in the United Kingdom or in any British possession outside India or in the Union of Burma under the law in force in that country" shall be substituted.

6. Repeal of Ordinance XXXII of 1948—The Code of Criminal Procedure (Amendment) Ordinance, 1948 (XXXII of 1948), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure (Amendment) Ordinance, 1948 (Ordinance No. XXXII of 1948), was promulgated on the 9th of November, 1948, with a view to enable Courts in the Provinces of India to issue commissions in criminal matters for the examination of witnesses residing in Pakistan, the United Kingdom, the Commonwealth countries and other British possessions. Although the law in force in these countries enabled such commissions to be executed, until the promulgation of the Ordinance there was no law authorising the issue of commissions by our Courts in criminal matters

2. The Ordinance will cease to be in force after the expiry of six months from the date of its promulgation, and the present Bill seeks to replace it by a permanent measure.

V. J. PATEL.

NEW DELHI;

The 27th February, 1949.

A. BILL No. 24 OF 1949

A Bill further to amend the Indian Wireless Telegraphy Act, 1933.

WHEREAS it is expedient further to amend the Indian Wireless Telegraphy Act, 1933 (XVII of 1933), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Wireless Telegraphy (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Amendment of preamble to Act XVII of 1933.—In the preamble to the Indian Wireless Telegraphy Act, 1933 (hereinafter referred to as the said Act), for the words "the provinces", the word "India" shall be substituted.

3. Amendment of section 1, Act XVII of 1933.—For sub-section (2) of section 1 of the said Act, the following sub-section shall be substituted, namely:—

"(2) It extends to the whole of India."

4. Amendment of section 2, Act XVII of 1933.—In section 2 of the said Act,—

(i) in clause (2), the word “and”, where it last occurs, shall be omitted;

(ii) after clause (2), the following clause shall be inserted, namely:—

“(2A) ‘wireless transmitter’ means any apparatus, appliance, instrument or material used or capable of use in making or transmitting telegraphic, telephonic or other communication by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus; and”

5. Amendment of section 6, Act XVII of 1933.—In section 6 of the said Act,—

(i) in sub-section (1), for the words “wireless telegraphy apparatus”, the words “wireless telegraphy apparatus, other than a wireless transmitter,” shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Whoever possesses any wireless transmitter in contravention of the provisions of section 3 shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.”

6. Substitution of new section for section 7, Act XVII of 1933.—For section 7 of the said Act, the following section shall be substituted, namely:—

“7. *Power of search.*—Any officer specially empowered by the Central Government in this behalf may search any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed, is kept or concealed, and take possession thereof.”

STATEMENT OF OBJECTS AND REASONS

The main objects of the Bill are (1) to extend the application of the Indian Wireless Telegraphy Act, 1933, to all Acceding States and (2) to provide for enhanced punishment for illegal possession of wireless transmitters.

By their Instruments of Accession all Indian States have acceded to the Dominion of India in respect of the entries relating to posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication in the Federal Legislative List, and the Dominion Legislature is, therefore, competent to legislate on the subject of wireless telegraphy for all such States. Clause 2 of the Bill seeks to extend the Indian Wireless Telegraphy Act, 1933, to the whole of India, that is, to all Provinces and Acceding States, as has already been done in the case of the Indian Telegraph Act, 1885.

With the release to the public of war surplus stocks, wireless transmitters appear to be in illegal use to a large extent. To check this, it is desirable that the penalties imposed under the provisions of the Indian Wireless Telegraphy Act, 1933, should be made heavier in the case of wireless transmitters, and the new sub-section (1A) in section 6 is intended for this purpose.

The seriousness of illegal possession of transmitters having been recognised, it is essential that restrictions in section 7 of the Act with regard to searches should be removed as far as possible so as to render the Act effective, but in amending this section care has been taken to vest the powers of search only in officers specially empowered by the Central Government in this behalf.

KHURSHED LAL

NEW DELHI;

The 25th February, 1949.

M. N. KAUL,

Secy. to the Govt. of India.

